

## Legal Services Corporation

## § 1609.5

### § 1608.6 Prohibitions applicable to attorneys and to staff attorneys.

While engaged in legal assistance activities supported under the act, no attorney shall engage in

- (a) Any political activity,
- (b) Any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or
- (c) Any voter registration activity.

### § 1608.7 Attorney-client relationship.

Nothing in this part is intended to prohibit an attorney or staff attorney from providing any form of legal assistance to an eligible client, or to interfere with the fulfillment of any attorney's professional responsibilities to a client.

### § 1608.8 Enforcement.

This part shall be enforced according to the procedures set forth in § 1612.5.

## PART 1609—FEE-GENERATING CASES

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AUTHORITY: Sec. 1007(b)(1) Legal Services Act of 1974, as amended (42 U.S.C. 2996f(b)(1)).

SOURCE: 49 FR 19656, May 9, 1984, unless otherwise noted.

### § 1609.1 Purpose.

This part is designed to insure that recipients do not compete with private attorneys and, at the same time, to guarantee that eligible clients are able to obtain appropriate and effective legal assistance.

### § 1609.2 Definition.

*Fee-generating case* means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from

public funds, or from the opposing party.

### § 1609.3 Prohibition.

No recipient shall use funds received from the Corporation to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All recipients shall establish procedures for the referral of fee-generating cases.

### § 1609.4 Authorized representation in a fee-generating case.

Other adequate representation is deemed to be unavailable when:

(a) The recipient has determined that free referral is not possible because:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee; or

(3) Emergency circumstances compel immediate action before referral can be made, but the client is advised that if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or

(b) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other non-pecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims; or

(c) A court appoints a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

(d) An eligible client is seeking benefits under subchapter II of the Social Security Act, 42 U.S.C. 401, *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or subchapter XVI of the Social Security Act, 42 U.S.C. 1381, *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled.

### § 1609.5 Acceptance of fees.

A recipient may seek and accept a fee awarded or approved by a court or administrative body, or included in a settlement, if: